

House File 286

S-3092

1 Amend House File 286, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 91A.3, subsection 3, Code 2015,
6 is amended to read as follows:

7 3. *a.* The wages paid under subsection 1 shall be
8 paid using a method authorized by this section.

9 *b.* Wages due may be paid at the employee's normal
10 place of employment during normal employment hours
11 or at a place and hour mutually agreed upon by the
12 employer and employee, or the employee may elect
13 to have the wages sent for direct deposit, on or by
14 the regular payday of the employee, into a financial
15 institution designated by the employee.

16 *c.* Upon written request by the employee, wages due
17 may be sent to the employee by mail. The employer
18 shall maintain a copy of the request for as long as it
19 is effective and for at least two years thereafter.

20 *d.* The employee may elect to have wages due sent
21 for direct deposit, on or by the regular payday of the
22 employee, into a financial institution designated by
23 the employee. An employee hired on or after July 1,
24 2005, may be required, as a condition of employment, to
25 participate in direct deposit of the employee's wages
26 in a financial institution of the employee's choice
27 unless any of the following conditions exist:

28 (1) The costs to the employee of establishing
29 and maintaining an account for purposes of the direct
30 deposit would effectively reduce the employee's wages
31 to a level below the minimum wage provided under
32 section 91D.1.

33 (2) The employee would incur fees charged to the
34 employee's account as a result of the direct deposit.

35 (3) The provisions of a collective bargaining
36 agreement mutually agreed upon by the employer and
37 the employee organization prohibit the employer from
38 requiring an employee to sign up for direct deposit as
39 a condition of hire.

40 *e.* An employer may offer payment of wages by debit
41 card or pay card pursuant to this section only if
42 the employee has the option of withdrawing all wages
43 due once per pay period, but not more frequently
44 than once per week, without incurring any charge, if
45 such withdrawal of wages is conducted at a financial
46 institution's office location. For purposes of this
47 paragraph, "financial institution" means the same as
48 defined in section 537.1301.

49 *b. f.* If the employer fails to pay an employee's
50 wages on or by the regular payday in accordance with

1 this subsection, the employer is liable for the amount
2 of any overdraft charge if the overdraft is created
3 on the employee's account because of the employer's
4 failure to pay the wages on or by the regular payday.
5 The overdraft charges may be the basis for a claim
6 under section 91A.10 and for damages under section
7 91A.8.

8 Sec. 2. Section 91A.5, subsection 1, paragraph b,
9 Code 2015, is amended to read as follows:

10 *b.* The employer ~~has~~ obtains advance written
11 authorization from the employee to so deduct for any
12 lawful purpose accruing to the benefit of the employee.

13 Sec. 3. Section 91A.6, subsection 1, Code 2015, is
14 amended to read as follows:

15 1. An employer shall ~~after being notified by the~~
16 ~~commissioner pursuant to subsection 2~~ do the following:

17 *a.* Notify its employees in writing at the time of
18 hiring what wages and regular paydays are designated
19 by the employer.

20 *b.* Notify its employees in writing whose wages are
21 determined based on a task, piece, mile, or load basis
22 about the method used to calculate wages and when the
23 wages are earned by the employees.

24 ~~*b.*~~ *c.* Notify, at least one pay period prior to the
25 initiation of any changes, its employees of any changes
26 in the arrangements specified in this subsection ~~±~~ that
27 reduce wages or alter the regular paydays. The notice
28 shall either be in writing or posted at a place where
29 employee notices are routinely posted.

30 ~~*e.*~~ *d.* Make available to its employees upon written
31 request, a written statement enumerating employment
32 agreements and policies with regard to vacation pay,
33 sick leave, reimbursement for expenses, retirement
34 benefits, severance pay, or other comparable matters
35 with respect to wages. Notice of such availability
36 shall be given to each employee in writing or by a
37 notice posted at a place where employee notices are
38 routinely posted.

39 ~~*d.*~~ *e.* Establish, maintain, and preserve for three
40 calendar years the payroll records showing the hours
41 worked, wages earned, and deductions made for each
42 employee and any employment agreements entered into
43 between an employer and employee.

44 Sec. 4. Section 91A.6, subsection 2, Code 2015, is
45 amended by striking the subsection.

46 Sec. 5. Section 91A.6, subsection 4, Code 2015, is
47 amended by striking the subsection and inserting in
48 lieu thereof the following:

49 4. *a.* On each regular payday, the employer shall
50 send to each employee by mail or shall provide at the

1 employee's normal place of employment during normal
2 employment hours a statement showing the wages earned
3 by the employee, the deductions made for the employee,
4 and the following information, as applicable:
5 (1) For each employee paid in whole or in part on
6 an hourly basis, the statement shall show the hours the
7 employee worked and the beginning and ending dates of
8 the pay period to which the statement applies.
9 (2) For each employee paid based on a percentage of
10 sales or based on a percentage of revenue generated for
11 the employer, the statement shall include a list of the
12 amount of each sale or the amount of revenue during the
13 pay period.
14 (3) For each employee whose pay is based on the
15 number of miles or loads performed, the statement shall
16 include the applicable number performed during the pay
17 period.
18 b. An employer who provides each employee access to
19 view an electronic statement of the employee's earnings
20 and provides the employee free and unrestricted access
21 to a printer to print the employee's statement of
22 earnings, if the employee chooses, is in compliance
23 with this subsection.
24 Sec. 6. Section 91A.8, Code 2015, is amended to
25 read as follows:
26 **91A.8 Damages recoverable by an employee.**
27 When it has been shown that an employer has
28 intentionally failed to pay an employee wages or
29 reimburse expenses pursuant to section 91A.3, whether
30 as the result of a wage dispute or otherwise, the
31 employer shall be liable to the employee for any the
32 unpaid wages or unreimbursed expenses that are so
33 ~~intentionally failed to be paid or reimbursed~~, plus
34 liquidated damages, court costs, and any attorney's
35 attorney fees incurred in recovering the unpaid wages
36 or unreimbursed expenses and determined to have been
37 usual and necessary. ~~In other instances the employer~~
38 ~~shall be liable only for unpaid wages or expenses,~~
39 ~~court costs and usual and necessary attorney's fees~~
40 ~~incurred in recovering the unpaid wages or expenses.~~
41 Sec. 7. Section 91A.9, subsection 3, Code 2015, is
42 amended to read as follows:
43 3. The commissioner may employ such qualified
44 personnel as are necessary for the enforcement of this
45 chapter. Such personnel shall be employed pursuant
46 to chapter 8A, subchapter IV. The commissioner shall
47 employ wage investigators for the enforcement of this
48 chapter.
49 Sec. 8. Section 91A.9, Code 2015, is amended by
50 adding the following new subsection:

1 NEW SUBSECTION. 4A. The commissioner shall
2 establish a statewide, toll-free telephone hotline for
3 the purpose of receiving reports of violations of this
4 chapter.

5 Sec. 9. Section 91A.10, subsection 5, Code 2015, is
6 amended to read as follows:

7 ~~5. An employer shall not discharge or in any other~~
8 ~~manner discriminate against any employee because the~~
9 ~~employee has filed a complaint, assigned a claim, or~~
10 ~~brought an action under this section or has cooperated~~
11 ~~in bringing any action against an employer.~~

12 5. a. An employer or other person shall not
13 discharge or in any other manner discriminate or
14 retaliate against any of the following:

15 (1) An employee or other person for exercising any
16 right provided under this chapter or any rules adopted
17 pursuant to this chapter.

18 (2) Another employee or person for providing
19 assistance to an employee or providing information
20 regarding the employee or person.

21 (3) Another employee or person for testifying or
22 planning to testify in any investigation or proceeding
23 regarding the employee or person.

24 b. Any employee may file a complaint with the
25 commissioner alleging discharge, or discrimination,
26 or retaliation within thirty days after such
27 violation occurs. Upon receipt of the complaint, the
28 commissioner shall cause an investigation to be made
29 to the extent deemed appropriate. If the commissioner
30 determines from the investigation that the provisions
31 of this subsection have been violated, the commissioner
32 shall bring an action in the appropriate district court
33 against such person. The district court shall have
34 jurisdiction, for cause shown, to restrain violations
35 of this subsection and order all appropriate relief
36 including rehiring or reinstatement of the employee to
37 the former position with back pay.

38 Sec. 10. Section 91A.10, Code 2015, is amended by
39 adding the following new subsection:

40 NEW SUBSECTION. 6. A civil action to enforce
41 subsection 5 may also be maintained in any court of
42 competent jurisdiction by the commissioner or by any
43 party injured by a violation of subsection 5. An
44 employer or other person who retaliates against an
45 employee or other person in violation of subsection 5
46 shall be required to pay the employee or other person
47 an amount set by the commissioner or a court sufficient
48 to compensate the employee or other person and to deter
49 future violations, but not less than one hundred fifty
50 dollars for each day that the violation occurred.

1 Sec. 11. NEW SECTION. 91A.12A **Erroneous**
2 **violations.**

3 If an employer erroneously violates the provisions
4 of this chapter or the rules adopted pursuant to this
5 chapter, the employer shall not be subject to liability
6 to an employee pursuant to section 91A.8, the violation
7 shall not constitute an enforceable claim as provided
8 in section 91A.10, and the employer shall not be
9 subject to a civil money penalty pursuant to section
10 91A.12, if all of the following conditions are met:

11 1. The commissioner determines that the violation
12 was erroneous and that the employer attempted in good
13 faith to comply with the provisions of this chapter and
14 the rules adopted pursuant to this chapter.

15 2. The commissioner, after considering any history
16 of violations of this chapter or the rules adopted
17 pursuant to this chapter by the employer, determines
18 that the violation was isolated in nature.

19 3. The employer corrects the violation to the
20 satisfaction of the labor commissioner within fourteen
21 days of the occurrence of the violation.

22 Sec. 12. NEW SECTION. 91A.15 **Commissions earned**
23 **date.**

24 An employer shall not require that a person be a
25 current employee to be paid a commission that the
26 person otherwise earned.

27 Sec. 13. NEW SECTION. 91A.16 **Inconsistency with**
28 **federal law.**

29 A provision of this chapter shall not apply to any
30 employer or employee if such provision would conflict
31 with federal law or regulation.

32 Sec. 14. **NOTIFICATION REQUIREMENTS.** The labor
33 commissioner shall provide for the notification of
34 each employer in this state of the requirements for
35 employers provided in this Act by September 1, 2015.
36 Such notification shall include suggested forms
37 and procedures that employers may use for purposes
38 of compliance with the notice and recordkeeping
39 requirements of section 91A.6, as amended by this Act.

40 Sec. 15. **EFFECTIVE DATE.** This Act takes effect
41 January 1, 2016.>

42 2. Title page, by striking line 1 and inserting <An
43 Act relating to wage payment collection issues arising
44 between employers and individuals who provide services
45 to employers, providing penalties and remedies, and
46 including effective date provisions.>

TONY BISIGNANO, CHAIRPERSON